IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.3812 of 2006

Shri Raghunath Bandu Jagtap Petitioner
Vs.
Shri Sampat Bandu Jagtap & ors. Respondents

Ms. A. S. Prabhu h/f. Mr. N. V. Bandiwadekar for petitioner.

CORAM: B.H.MARLAPALLE,J.

June 12, 2006.

P.C.

. Heard Mr.Prabhu holding for Mr.Bandiwadekar, the learned counsel for the petitioner. The petitioner is the eldest brother and he had filed Regular Civil Suit No.12 of 2000 against his two brothers Sampat and Shivaji, seeking a decree of permanent injunction from disturbing his possession over the suit property i.e. the property at City Survey No.54, (Gram Panchayat No.824) admeasuring 38.5 sq.mtrs. of Vadgaon, Taluka Karad, Dist. Satara. The suit was dismissed on 19/12/2005 by the learned 3rd Jt. Civil Judge, Junior Division at Karad and Regular Civil Appeal No.7 of 2006 filed against the said order is still pending. In the said appeal an interlocutory application at Exhibit 7 was taken out for temporary injunction alleging that after the dismissal of the suit the plaintiff was

unlawfully dispossessed of the suit property. This application has been rejected by the learned 1st Ad-hoc Additional District Judge at Karad by his order dated 4/4/2006 and hence this petition under Article 227 of the Constitution.

. The trial Court has recorded a finding that the suit house was a joint family property and the plaintiff claimed 1/2 share in the suit property. Though the record showed the name of the plaintiff as the owner, the trial Court noted that the plaintiff being the Karta of the family, the property record was in his name but it was a joint family property of the plaintiff and the defendants - brothers as the co-owners. The trial Court in such circumstances rightly rejected the plea of the plaintiff for permanent injunction against his own brothers who are the co-owners of the suit property.

. The lower Appellate Court rejected the contentions that the plaintiff was dispossessed after the suit was dismissed and when the trial Court recorded a finding that the plaintiff was not exclusive owner of the suit house, he could not seek injunction against his brothers and co-sharers of the

said property. The reasoning given by the lower Appellate Court in rejecting the application for temporary injunction calls for no interference at the hands of this Court. Hence the petition is rejected summarily.

(B.H.MARLAPALLE,J.)